

## Internal Revenue Service, Treasury

## § 301.6404-1

same extent as payment to the common parent under § 1.1502-77 or § 1.1502-78 of this chapter. Furthermore, any refund or tentative carryback adjustment paid to the fiduciary is considered a payment to all members of the carryback year group. Any determination made by the Internal Revenue Service under this section to pay a refund or tentative carryback adjustment to a fiduciary or the common parent may not be challenged by the common parent, any member of the group, or the fiduciary.

(1) *Effective dates.* This section applies to refunds and tentative carryback adjustments paid after December 30, 1991.

[T.D. 8387, 56 FR 67487, Dec. 31, 1991; 57 FR 6073, Feb. 20, 1992. Redesignated and amended by T.D. 8446, 57 FR 53034, Nov. 6, 1992; T.D. 8677, 61 FR 33325, June 27, 1996; T.D. 8823, 64 FR 36101, July 2, 1999]

### § 301.6403-1 Overpayment of installment.

If any installment of tax is overpaid, the overpayment shall first be applied against any outstanding installments of such tax. If the overpayment exceeds the correct amount of tax due, the overpayment shall be credited or refunded as provided in section 6402 and §§ 301.6402-1 to 301.6402-4, inclusive.

### § 301.6404-0 Table of contents.

This section lists the paragraphs contained in §§ 301.6404-1—301.6404-3.

#### § 301.6404-1 Abatements.

##### § 301.6404-2T Definition of ministerial act (temporary).

- (a) In general.
- (b) Ministerial act.
- (1) Definition.
- (2) Examples.
- (c) Effective date.

##### § 301.6404-3 Abatement of penalty or addition to tax attributable to erroneous written advice of the Internal Revenue Service.

- (a) General rule.
- (b) Requirements.
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- (i) In general.
- (ii) Advice relating to a tax return.
- (iii) Amended returns.
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- (v) Period of reliance.
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(c) Definitions.

(1) Advice.

(2) Penalty and addition to tax.

(d) Procedures for abatement.

(e) Period for requesting abatement.

(f) Examples.

(g) Effective date.

[T.D. 8299, 55 FR 14245, Apr. 17, 1990]

### § 301.6404-0T Table of contents (temporary).

This section lists the paragraphs contained in § 301.6404-4T.

#### § 301.6404-4T Listed transactions and undisclosed reportable transactions (temporary).

(a) [Reserved]

(b)(1) through (b)(4) [Reserved]

(5) Listed transactions and undisclosed reportable transactions.

(i) In general.

(ii) Effective dates.

(iii) Special rule for certain listed or undisclosed reportable transactions.

(A) Participant in a settlement initiative.

(1) Participant in a settlement initiative who as of January 23, 2006, had not reached agreement with the IRS.

(2) Participant in a settlement initiative who, as of January 23, 2006, had reached agreement with the IRS.

(B) Taxpayer acting in good faith.

(1) In general.

(2) Presumption.

(3) Examples.

(C) Closed transactions.

[T.D. 9333, 72 FR 34177, June 21, 2007]

### § 301.6404-1 Abatements.

(a) The district director or the director of the regional service center may abate any assessment, or unpaid portion thereof, if the assessment is in excess of the correct tax liability, if the assessment is made subsequent to the expiration of the period of limitations applicable thereto, or if the assessment has been erroneously or illegally made.

(b) No claim for abatement may be filed with respect to income, estate, or gift tax.

(c) Except in case of income, estate, or gift tax, if more than the correct amount of tax, interest, additional amount, addition to the tax, or assessable penalty is assessed but not paid to the district director, the person against whom the assessment is made may file a claim for abatement of such